

**United States Department of Labor
Employees' Compensation Appeals Board**

FRANK CIARAMELLA, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Brockton, MA, Employer**

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**Docket No. 03-2298
Issued: February 4, 2004**

Appearances:
Frank Ciaramella, pro se,
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On September 11, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs decision dated July 7, 2003 denying his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue on appeal is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty.

FACTUAL HISTORY

On April 1, 2003 appellant, then a 38-year-old mail processing clerk, filed an occupational disease claim alleging that he developed a hernia from repetitive lifting of overloaded flat tubs. He indicated that he first became aware of his condition on January 28, 2003. Appellant stated that he experienced pain and discomfort in his stomach for two to three months and, on March 26, 2003, went to his physicians, who diagnosed a hernia. The Office also received a position description, surgery instructions and a referral note from

Dr. Lawrence Wohl, Board-certified in internal medicine. In an undated letter received on April 21, 2003, the employing establishment indicated that appellant was responsible for feeding flat mail from a general purpose mail carrier (GPMC) hamper and putting pallets on the automated feeder. He also had to lift tubs of mail onto a staging table next to the feeder, extract the flats from the tub and load the feeder. Appellant worked with 3 employees loading and 2 sweeping, rotating into other positions in 20-minute intervals. It was noted that occasionally the tubs needed to be pulled or lifted. The employing establishment indicated that this occurred eight hours a day, five days a week.

On April 22, 2003 the Office requested that appellant submit additional factual and medical information to support his claim.

The Office subsequently received an e-mail dated September 25, 2002 from the employing establishment concerning safety procedures and advising employees to inspect areas to stop overloading of tubs.

In an April 28, 2003 letter, appellant provided factual information, including his position description. He believed that his condition occurred as a result of the repetitive lifting for eight hours a day, five days a week and that he sustained an inguinal hernia from twisting, bending and lifting. Appellant submitted a report dated May 7, 2003 from Dr. Wohl who indicated that appellant had been treated by Dr. Allen Davis, a Board-certified surgeon, for a left inguinal hernia. Dr. Wohl stated that “in the course of [appellant’s] occupation, he may lift objects which would cause muscular straining. Muscular straining can precipitate an inguinal hernia.” He also indicated that appellant also had torticollis and developed neck spasms of the cervical and paraspinal muscles and was being followed by a neurologist.

In a decision dated July 7, 2003, the Office denied appellant’s claim for compensation on the grounds that the medical evidence failed to establish that his work activities caused or aggravated the claimed condition. The Office noted that the medical evidence did not explain how the activities of appellant’s federal employment caused or affected his condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the

¹ U.S.C. §§ 8101-8193.

² *William F. Gay*, 50 ECAB 276 (1999); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

The record establishes that appellant is a mail processing clerk, whose duties require him to load, unload and move bulk mail. It is not disputed that appellant was engaged in pushing and lifting heavy mail and threw heavy mail in the performance of his duties. The issue, therefore, is whether the medical evidence establishes that these employment activities caused or contributed to his hernia condition.

Dr. Wohl reported on May 7, 2003 that appellant had recently been treated for a left inguinal hernia by Dr. Davis. While this indicates that appellant had a hernia, the medical opinion is insufficient to establish causal relationship. The Board has held that medical conclusions unsupported by rationale are of little probative or evidentiary value.⁵ Dr. Wohl offered no rationalized explanation to explain how appellant's work requirements caused or contributed to the diagnosed hernia. He merely stated that appellant might lift objects in the course of his occupation that could cause muscular straining, which could precipitate an inguinal hernia. The Board has held that medical opinions based upon an incomplete history or which are speculative or equivocal in character are of diminished value.⁶

³ *Gabe Brooks*, 51 ECAB184 (1999); *Caroline Thomas*, 51 ECAB 451 (2000); see *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ See *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ A medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451 (2000).

⁶ *Vaheh Mokhtarians*, 51 ECAB 190 (1999).

The Board finds that the medical opinion evidence of record in the instant case is insufficient to establish that appellant's claimed conditions were caused or contributed to by his federal employment. Neither the fact that a condition became apparent during a period of employment nor the belief of appellant that his condition was caused or aggravated by an employment condition is sufficient to establish causal relation.⁷ Because he has not met his burden of proof to establish the essential elements of his claim, the Board will affirm the denial of compensation.⁸

CONCLUSION

Appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 4, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁷ *Ernest St. Pierre*, 51 ECAB 623 (2000); *Donald E. Ewals*, 51 ECAB 428 (2000).

⁸ Office procedures provide that a right to reconsideration within one year accompanies any merit decision by the Board. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3b (June 2002). Appellant, therefore, has one year after the date of this decision by the Board to submit to the District Office, with a written request for reconsideration, sufficient medical opinion evidence to establish causal relationship.